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SENATE

{
REPORT
No. 496

PROVIDING THAT CERTAIN LIMITATIONS SHALL NOT APPLY TO
CERTAIN LAND PATENTED TO THE STATE OF ALASKA FOR
THE USE AND BENEFIT OF THE UNIVERSITY OF ALASKA

JULY 20, 1965.—Ordered to be printed

Mr. GRUENING, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany S. 1190]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 1190) to provide that certain limitations shall not apply to certain land patented to the State of Alaska for the use and benefit of the University of Alaska, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of S. 1190 is to authorize the State of Alaska to make a negotiated disposal of lands in dispute between the University of Alaska and the Klukwan Iron Ore Corp. Involves 153-acre tract which Klukwan says should not have been patented to university because the corporation's placer mining filing was outstanding at the time. The act of January 21, 1929, prohibits the direct private sale of lands which the State of Alaska and the corporation wish to consummate, and S. 1190 would waive these limitations.

CONCLUSION

Both the University of Alaska and the Klukwan Iron Ore Corp., which filed suit in the State supreme court at Juneau, Alaska, to quiet its claim to the lands, decided to settle out of court. This bill will clear the way for agreement, and the committee feels this to be a reasonable solution. It unanimously recommends enactment.

DEPARTMENTAL REPORTS

The reports received from the Department of the Interior and the Bureau of the Budget are set forth below:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 8, 1965.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: This responds to your committee's request for our views on S. 1190, a bill to provide that certain limitations shall not apply to certain land patented to the State of Alaska for the use and benefit of the University of Alaska.

We have no objection to enactment of the bill.

S. 1190 waives the limitations of sections 4 and 5 of the act of January 21, 1929, as amended, 74 Stat. 408 (1960), 48 U.S.C. 354a (c) and (d) (supp. V, 1964), that lands granted to the Agricultural College and the School of Mines (now the University of Alaska) be disposed of, by lease or sale, only after advertising and competitive bidding. The bill applies to approximately 153.05 acres of land in Alaska, and in effect authorizes the State of Alaska to make a negotiated disposal of the lands.

The lands described in S. 1190 were included in clear list No. 8 issued to the then Territory of Alaska on May 14, 1957, under the act of January 21, 1929, 45 Stat. 1091, 48 U.S.C. 354a (1958). After the clear list was issued, the Klukwan Iron Ore Corp. requested that it be canceled insofar as it covered the lands included in S. 1190. The corporation's request was based on its contention that it had valid placer mining claims on these lands which should have precluded their disposition to the territory. The corporation's request was denied by the Department by decision of August 15, 1962 (A-28860).

The decision held that (1) where the Department has clear-listed land to the territory of Alaska under a congressional grant, the Department has no further jurisdiction over the land, and (2) the Department will not recommend that suit to set aside a clear list of land to the territory of Alaska be instituted where a protest against the selection is not received until after the clear list has issued, where no Government interest is involved, and where the Government is under no duty to the protestant.

We are informed that the State of Alaska wishes to convey the 153.05 acres described in S. 1190 to the Klukwan Iron Ore Corp. However, under the terms of section 4 of the act of January 21, 1929, supra, land granted under that act "shall not be sold or leased, in whole or in part, except to the highest bidder at public auction, notice of which auction shall have been duly given by advertisement * * * nor shall any sale or contract for the sale of any timber or natural product of such lands be made, save at the place, in the manner, and after notice thus provided for sales and leases of the lands themselves * * *."

Section 5 of the act requires, in part, that: "All lands * * * and other products of the lands before being offered shall be appraised

at their true value, and no sale or other disposal thereof shall be made for a consideration less than the value so ascertained * * *." Thus, the law prohibits the direct private sale of lands described in S. 1190 which the State of Alaska and the corporation wish to consummate.

The United States no longer has any real property interest in these lands. However, section 7 of the act of January 21, 1929, as amended, 74 Stat. 408 (1960), 48 U.S.C. 354a(f) (Supp. V, 1964), makes it the duty of the Attorney General to enforce the provisions of sections 4 and 5 relating to the disposition of lands, and products thereof, granted under the 1929 law.

The records of this Department indicate that the lands are without value for leasable minerals, but are in an area which is of interest for iron, the Klukwan-Haines magnetite area. The iron occurs in magnetite-bearing pyroxenite bodies, and in placer sands derived from such bodies. Both sources have been prospected for iron.

In view of the claim of the Klukwan Iron Ore Corp. to these lands, a negotiated sale thereof by the State of Alaska to the corporation appears to be a reasonable solution. In a somewhat similar situation, but not involving a governmental entity, it was held that the issuance of a patent by the Department for certain public land on which valid mining claims had been located, did not preclude the mining claimant from having the patentee declared to be holding the land, on which the mining claims were situated, for the use and benefit of the mining claimant. *Montgomery v. Gerlinger*, 304 P. 2d 93 (1957).

We understand that the Klukwan Iron Ore Corp. filed a suit in the State supreme court at Juneau, Alaska, to quiet its claim to the lands in question. Then, both the University of Alaska and the corporation decided to settle the matter out of court, but the proposed settlement envisaged an agreement prohibited by the 1929 law.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

D. OTIS BEASLEY,
Assistant Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., July 8, 1965.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget on S. 1190, a bill to provide that certain limitations shall not apply to certain land patented to the State of Alaska for the use and benefit of the University of Alaska.

The bill would waive the limitations of sections 4 and 5 of the act of January 21, 1929 (48 U.S.C. 354a (c) and (d)). We understand that this is necessary to permit the University of Alaska to make suitable arrangements for the use of certain of its lands.

The Bureau of the Budget would have no objection to enactment of this legislation.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

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